

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOHNNY MALDONADO,

Petitioner,

v.

Case No. 16-cv-115-pp

BRIAN FOSTER,

Respondent.

**ORDER REQUIRING PETITIONER TO FILE NEW STATUS REPORT AND
CLOSING THE CASE FOR ADMINISTRATIVE PURPOSES WITH THE RIGHT
TO REOPEN UPON EXHAUSTION**

On February 1, 2016, the petitioner (represented by counsel) filed his federal *habeas* petition. Dkt. No. 1. On the same day, counsel filed a motion, asking the court to stay any proceedings in the *habeas* so that the petitioner could pursue his unexhausted claims in state court. Dkt. No. 2. (Counsel noted that the petition was being filed in order to avoid expiration of the AEDPA limitations deadline. *Id.* at 2.) The court granted that motion on March 17, 2016, and ordered the petitioner to file a motion to lift the stay within sixty (60) days of completing exhaustion. Dkt. No. 4.

While the court did not order that the petitioner file periodic status reports, counsel did so on October 17, 2016, notifying the court that the petitioner's state claims awaited the Wisconsin Supreme Court's resolution of State of Wisconsin v. Raymond Nieves, 14AP1623-CR. Dkt. No. 5. About fifteen months have passed since the petitioner filed that report, and a case search

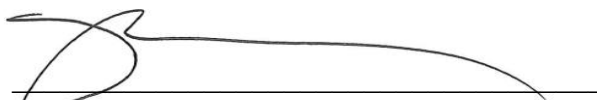
reveals that the Wisconsin Supreme Court issued a decision in State v. Nieves on June 29, 2017. State v. Nieves, 376 Wis.2d 300 (Wis. 2017).

Given the amount of time that has passed since the last status report and the Supreme Court's decision, the court asks the petitioner to provide the court with an update. The court also will administratively close the case, reserving to the parties all rights they would have had had the case not been closed for administrative purposes, until the petitioner notifies the court that he has exhausted his claims in state court. Once the petitioner has exhausted his state claims, he may file a brief motion to reopen. The court will immediately reopen the case, with February 1, 2016 remaining the original filing date.

The court **ORDERS** that no later than the end of the day on **Friday, March 2, 2018**, the petitioner shall file an update with this court, explaining the status of his state court case, or notifying the court that he no longer wishes to proceed. The **DIRECTS** the clerk of court to **CLOSE** this case for administrative purposes. The court's previous order that the petitioner file a motion to lift the stay within sixty days of completing exhaustion remains in effect.

Dated in Milwaukee, Wisconsin this 31st day of January, 2018.

BY THE COURT:



HON. PAMELA PEPPER
United States District Judge